
STATUTORY INSTRUMENTS

1992 No. 225

The Uncertificated Securities Regulations 1992

PART VI

UNCERTIFICATED SECURITIES

CHAPTER II

Transmission by Operation of Law

Transmission &c by operation of law

51.—(1) This regulation applies where:

- (a) the affairs of an account holder are, by or under any enactment or Order of a court of competent jurisdiction or (without prejudice to the foregoing) by virtue of the appointment of a receiver of any description, being managed by or are subject to the control of another (the “manager”) (whether generally or to the extent of any entitlements held for that account holder by a controller) and the consent of the manager is, by or under the enactment or Order, required to the transfer of units of a security held by the account holder;
- (b) the rights of an account holder to enforce the duties of the controller owed to that account holder have become vested in another (“the successor”) by operation of law;
- (c) by or under any enactment or Order of a court of competent jurisdiction or any rule of law, the title to a unit of an uncertificated security, or the right to transfer the unit or be registered with it, has devolved upon, is vested in, or has been transmitted to or otherwise howsoever become held by a person (“the successor”) by operation of law; or
- (d) (in the case of shares) by or under the company’s memorandum and articles of association or (in the case of any securities) by the terms of issue of the security, the right to transfer a unit of a security has become vested in a person (“the successor”)

any such circumstances being referred to below as a “relevant circumstance”.

(2) A controller, having received actual notice of a relevant circumstance affecting an entitlement held by him or it or a unit of an uncertificated security the entitlement to which is held by him or it (together referred to below as “an affected entitlement”) is under a duty not to consent to any transfer of an affected entitlement or to act upon any instruction to hold such an entitlement for another or otherwise act in relation to such an entitlement without the consent of the manager or successor or upon the instructions of the successor.

This paragraph shall not be construed as invalidating, or requiring any such consent for, an instruction received by the controller prior to receiving such actual notice, provided that the instruction has by then been acted upon by the controller or is otherwise irrevocable.

(3) A controller shall, however, having received such notice continue to regard the person for whom an affected entitlement is or has been held as the account holder with respect to that entitlement (even though a person (if an individual) is dead or (if a body of persons corporate or unincorporate) has been dissolved), in particular by continuing to instruct the registration of that person when he or it is required to issue proper instructions to register under the system, until he or it receives an

instruction with respect to the entitlement from the successor under the following provisions of this regulation or (as the case may be) a notification from the manager under paragraph (7).

Accordingly, if a commercial controller is no longer authorised to hold entitlements for the account holder after receipt of actual notice of a relevant circumstance, regulation 13(1) and (2) shall not apply.

(4) The procedures set out in paragraphs (5) and (6) may be followed in order that a successor may become registered as the holder of a unit to which an affected entitlement relates or otherwise transfer it or deal with the affected entitlement.

(5) A successor may instruct the controller to hold an affected entitlement for the successor or may give such instruction with respect to a transfer of the entitlement or the holding of the entitlement for another as if the successor were the account holder with respect to the entitlement (in the case of a commercial controller as if there were no agreement under regulation 13(1)) and the instruction shall have effect accordingly.

(6) Subject to paragraph (7), a controller need not give effect to an instruction under paragraph (5), unless he or it has received such evidence as the controller may reasonably require of the relevant circumstance; in particular he or it may require production of the following:

- (a) where an enactment or Order of a court constitutes the relevant circumstance, a copy of the enactment or an office copy of the Order; and
- (b) where the title to a unit of an uncertificated security or the rights of an account holder to enforce the duties of a controller has or have devolved as a result of the death of a person, any document:
 - (i) which (in England and Wales or Northern Ireland) is by law sufficient evidence of probate or the will, or letters of administration of the estate, or confirmation as executor, of a deceased person having been granted to the successor;
 - (ii) which (in Scotland) is by law sufficient evidence of confirmation as executor of a deceased person having been granted to the successor with respect to the rights of the person against the controller in connection with an entitlement or to a unit of an uncertificated security, the entitlement to which is held by the controller.

(7) A manager shall notify the controller if the affairs of the account holder have ceased to be under his management or control.

(8) Unless on actual notice to the contrary with respect to a particular purported instruction, a company controller shall be entitled and bound to act upon an instruction issued by means of the Operator's part of the system with respect to an affected entitlement as being issued with the authority of the successor by an approved person and the successor shall be bound accordingly, provided that the successor has, prior to the controller's receipt of the instruction, given the controller such evidence as the controller may reasonably require of the relevant circumstance (including any matter referred to in paragraph (6)(a) or (b)).

(9) Where instructions have been received by a controller from an account holder prior to the controller receiving actual notice of a relevant circumstance, the controller may, notwithstanding any provision of this regulation, act on those instructions if, as a result of the manner in which communications received by the controller are processed, it is not practicable for the controller to halt the processing of the instruction.

(10) Subject to paragraph (11) paragraphs (1) to (9) shall (so far as applicable) apply with any necessary modifications where a relevant circumstance occurs in respect of a person amongst two or more persons acting jointly who are together an account holder or jointly registered as the holder of a unit of an uncertificated security.

(11) This paragraph applies where an entitlement held by a controller is held for two or more persons acting jointly and the controller receives actual notice of the vesting, by operation of law,

of the unit of an uncertificated security to which the entitlement relates, or otherwise the rights of those persons to enforce the duties of the controller, in the survivor or survivors of those persons.

The controller shall hold the entitlement for the survivor or survivors who shall be the account holder with respect to the entitlement.

(12) In this regulation “enactment” includes, in relation to paragraph (1)(a) and (c), any legislation in any country which is effective to achieve the circumstances therein referred to.

(13) This regulation is subject to regulation 53.